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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/514,930	10/15/2001	Christopher B. Howe		9263
7590	07/13/2005		EXAMINER	
David S MacKenzie			BELL, KENT L	
Hortech Inc			ART UNIT	PAPER NUMBER
P O Box 533				
Spring Lake, MI 49456			1661	

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE  
 Patent and Trademark Office  
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 Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/514,930	February 28, 2000	Christopher Howe	N/A

EXAMINER	
Kent L. Bell	
ART UNIT	PAPER NUMBER
1661	76

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application

Commissioner of Patents

The proposed reply filed on March 26, 2003 has not been entered because it is unsigned, i.e. The Amendment and Response papers were not signed by a person having authority to prosecute the application. Therefor, the unsigned amendment will not be entered (MPEP 714.01(a)).

MPEP 714.01(a):

37 CFR 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

(b) Amendments and other papers filed in the application must be signed by:

- (1) An attorney or agent of record appointed in compliance with 1.34(b);
- (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of 1.34(a);
- (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
- (4) An assignee of record of an undivided part interest, and any assignee(s) of the

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remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or

(5) All of the applicants (1.42, 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with 3.71 and 3.73.

3.71 Prosecution by assignee.

(a) *Patents - conducting of prosecution.* One or more assignees as defined in paragraph

(b) of this section may, after becoming of record pursuant to paragraph (c) of this section, conduct prosecution of a national patent application or a reexamination proceeding to the exclusion of either the inventive entity, or the assignee(s) previously entitled to conduct prosecution.

(b) *Patents - assignee(s) who can prosecute.* The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:

(1) *A single assignee.* An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or

(2) *Partial assignee(s) together or with inventor(s).* All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.

(c) *Patents - Becoming of record.* An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in

compliance with 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

(d) *Trademarks*. The assignee of a trademark application or registration may prosecute a trademark application, submit documents to maintain a trademark registration, or file papers against a third party in reliance on the assignee's trademark application or registration, to the exclusion of the original applicant or previous assignee. The assignee must establish ownership in compliance with 3.73(b).

*3.73 Establishing right of assignee to take action.*

(a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application or registration, unless there is an assignment.

(b)(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Commissioner. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(I) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

(2) The submission establishing ownership must show that the person signing

the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

(c) For patent matters only:

(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.

(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

Since the above-mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

### **Future Correspondence**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kent L. Bell whose telephone number is (571) 272-0973. The Examiner can normally be reached Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Wang, can be reached at (571) 272-0811.

The fax phone number for the group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.

K. L. Bell

**KENT BELL  
PRIMARY EXAMINER**

